THE HON'BLE MS JUSTICE G. ROHINI

W.P.No.27422 of 2005

Dated: 15-06-2006

Between:

Mudigonda Pullaiah.

..Petitioner

and

The Agent to Government/District Collector, Khammam and others.

..Respondents.

THE HON'BLE MS JUSTICE G. ROHINI

W.P.No.27422 of 2005

ORDER:

This writ petition is filed seeking a declaration that the alleged action of the respondents 2 and 3 and their staff in taking steps to dispossess the petitioner from the land admeasuring Ac:2-06 guntas situated in Sy.No.38 of Nacharam

Village, Enkoor Mandal, Khammam District, without following due process of law as arbitrary and illegal.

It is not in dispute that the land in question is declared as a scheduled area and thus, the provisions of the Regulation 1 of 1959 read with Regulation 1 of 1970 are applicable. The petitioner states that proceedings were initiated earlier under Section 3(2) of Regulation 1 of 1959 alleging that the petitioner was in possession of the land in question in contravention of the provisions of Regulation 1 of 1959 read with Regulation 1 of 1970. However, after due enquiry, the second respondent, by an order, dated 03-05-1995, dropped the proceedings. It is claimed that the said order has become final and the petitioner has been continuing in possession and enjoyment of the land in question. While so, a fresh notice in Form-E under Rule 7(2) of the Rules made in Regulation 1 of 1959 was served on the petitioner calling upon him to show cause as to why he should not be ejected from the land in question and the same shall not be restored to the fourth respondent herein. It was alleged in the said notice that the petitioner was in possession of the said land in contravention of Sub-Section (1) of Section 3 of the Andhra Pradesh (Scheduled Areas) Land Transfer Regulation Rules, 1959. The petitioner contends that initiation of fresh proceedings for eviction under Regulation 1 of 1959 in spite of the fact that earlier order dated 03-05-1995 in respect of the very same land become final, is without jurisdiction. At any rate, while the proceedings are still pending, the respondents are not justified in attempting to dispossess the petitioner from the land in question forcibly.

Though no counter-affidavit has been filed on behalf of the respondents 1 to 3, the fourth respondent in his counter-affidavit stated that as a matter of fact, fourth respondent has been in possession of the land in question.

Since the enquiry initiated under the notice, dated 01-09-2004 is still pending before the second respondent, I am not inclined to express any opinion as to the rival claims made by the petitioner and fourth respondent with regard to the title and possession of the land in question. It is a matter to be decided by the second respondent after making the necessary enquiry on the basis of the evidence that may be produced by both the parties.

Accordingly, without expressing any opinion as to the claims made by the

parties, the writ petition is disposed of with a direction to the second respondent to complete the enquiry in pursuance of the notice, dated 01-09-2004 and to pass appropriate orders in accordance with law after affording due opportunity to all the parties concerned. Such order shall be passed as expeditiously as possible, preferably, within a period of three months from the date of receipt a copy of this order. Till such time, the interim order granted by this Court on 23-12-2005 not to interfere with the possession of the petitioner from the land in question shall be continued. No costs.

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G. ROHINI, J

Dated: 15-06-2006

sj